

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF OKLAHOMA**

HEATHER SMITH individually and)	
on behalf of all others similarly)	
situated,)	
)	
Plaintiff,)	
)	Case No. 5:23-cv-00559-D
vs.)	
)	<u>CLASS ACTION</u>
WHALECO, INC. d/b/a TEMU,)	
)	(JURY TRIAL DEMANDED)
Defendant.)	

**UNOPPOSED MOTION FOR EXTENSION OF TIME TO RESPOND TO
MOTION TO COMPEL ARBITRATION**

Pursuant to Federal Rule of Civil Procedure 6(b)(1) and Local Rule 7.1 (h) & (k), Plaintiff Heather Smith, files this initial motion for an extension of time to respond to Defendant Whaleco, Inc. d/b/a TEMU's ("TEMU") Motion to Compel Arbitration and states as follows.

1. On May 22, 2023, Plaintiff filed a putative class action against Defendant TEMU in the District Court of Washita County, State of Oklahoma, alleging violations of Oklahoma's Telephone Solicitation Act of 2022 (the "OTSA"), Okla. Stat. tit. 15 § 775C.1, *et seq.* Dkt. 1-1.

2. The summons and Complaint were served on TEMU on June 6, 2023.

3. On June 26, 2023, TEMU removed the action to this Court. Dkt. 1.

4. Pursuant to Federal Rule of Civil Procedure 81, after removal, the defendant had 7 days to file a response to the complaint. Hence, the initial deadline to

respond to the Complaint was July 3, 2023.

5. Counsel for TEMU conferred with Plaintiff's counsel and requested an extension of time of twenty-one (21) days until July 25, 2023, to file a responsive pleading or any other applicable motions in this case. Dkt. 5.

6. On June 30, 2023, the Court entered an Order granting this request. Dkt. 9.

7. On July 25, 2023, TEMU filed its Motion to Compel Arbitration and Brief in Support. Dkts. 11, 12.

8. Based on Local Rule 7.1(g), Plaintiff's response to TEMU's Motion to Compel Arbitration is due on August 15, 2023.

9. Counsel for Plaintiff, on August 11, 2023, requested an extension of 30 days from TEMU's counsel to file Plaintiff's response to TEMU's Motion to Compel by September 14, 2023.

10. This is Plaintiff's first request for an extension of time to respond to TEMU's Motion to Compel.

11. The purpose of the requested extension is to allow Plaintiff and counsel for Defendant an opportunity to explore resolution.

12. TEMU's counsel does not oppose the requested extension of time for Plaintiff to respond to TEMU's Motion to Compel.

13. The extension will not affect any other deadlines unrelated to TEMU's Motion to Compel.

14. Plaintiff has submitted a proposed order on this motion.

August 14, 2023

Respectfully submitted,

/s/ Kathy R. Neal

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*Counsel for Plaintiff and the Putative
Class*

CERTIFICATE OF ELECTRONIC SERVICE AND FILING

I hereby certify that on this 14th day of August 2023, I caused the foregoing instrument to be filed with the Clerk of the Court using the ECF System for filing, with electronic service to be made via CM/ECF to those registered participants of the ECF System.

/s/ Kathy R. Neal

Kathy R. Neal